

Los Angeles County Sheriff's Department - Antelope Valley Statement of Intent

The following is a statement of intent to reach a comprehensive settlement agreement (Agreement) to be negotiated between the County of Los Angeles, and the United States of America (collectively, the Parties) to resolve issues identified by the Department of Justice's investigation, pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §§ 3601-3631, as amended, into alleged civil rights violations by the Lancaster and Palmdale stations (collectively, the Antelope Valley stations) of the Los Angeles Sheriff's Department (LASD). The Agreement to be negotiated is intended to ensure that: 1) LASD personnel in the Antelope Valley engage in practices that comply with the Constitution and laws of the United States; and 2) the objectives of LASD's Core Values and Trust-Based Policing program are realized in the Antelope Valley community.

The United States has concluded that some LASD personnel in the Antelope Valley engage in a pattern or practice of unconstitutional and unlawful policing regarding stops, searches, and seizures, excessive force, and discriminatory targeting of voucher holders in their homes.

The County contends that there is no such pattern or practice of constitutional or federal law violations, but agrees that the findings identified by the United States are issues of great importance to the County, LASD, and the Antelope Valley community. The County and LASD have established high standards for deputies, as their Core Values and Public Trust Policing program reflect the idea that community participation and trust are necessary for effective policing that ensures public safety. This Agreement builds upon this important tenet of LASD's mission. LASD has already demonstrated its commitment to ensuring constitutional policing by implementing changes to its policies and training materials in response to the Department of Justice's feedback. In particular, LASD has made progress with respect to its recent community outreach efforts in the Antelope Valley, which have been positively received by many in the community. These outreach efforts are consistent with and a reflection of LASD's public trust policing model, which is intended to promote constructive communication with the community.

This Agreement is intended to ensure that the shared policing objectives of the United States and the LASD are embodied and carried out by every member of LASD in the Antelope Valley. The United States recognizes the dangers faced by law enforcement officers, and believes that prompt implementation of this Agreement not only will ensure constitutional policing and increase the public's confidence in LASD, but also increase the safety of deputies and community members in the Antelope Valley.

While the parties recognize that none of the matters contained herein are binding or enforceable until an Agreement is reached, the Parties have identified various provisions listed below that they believe should be included in some form in the final Agreement, the details of which will be negotiated. The Parties will be cognizant of costs in negotiating the Agreement

but recognize that constitutional and statutory obligations supersede any financial burden. Therefore, the negotiations will include discussions of cost-effective ways to implement the final provisions of the Agreement and the possible effect on other areas of constitutional policing and overall public safety. The parties will continue negotiations in an attempt to reach a final comprehensive settlement Agreement.

1. Stops, Searches, and Seizures

LASD will revise its policies, directives, training, and practices so that stops, searches, and seizures by Antelope Valley deputies are consistently conducted in accordance with the law.

LASD will require Antelope Valley deputies to document in their patrol logs, in electronic searchable and retrievable format, a narrative articulating specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, pedestrian, bicycle, or vehicle stops, non-consensual and consensual searches, probation or parole searches, and property seizures. Noting a radio clearance code, or the code for the resulting citation or arrest that ultimately resulted (as required by current policy) will not be deemed sufficient articulation of legal support for the stop or search. To allow for more precise and accurate analysis of all field activity, LASD policy will specifically track bicycle stops.

LASD will revise policies and training regarding questioning individuals about their probation or parole status to ensure that deputies understand that this question may not be motivated, in whole or in part, by an individual's status as a member of a protected class, including race, ethnicity, or national origin. LASD shall document and track relevant information about all searches conducted pursuant to consent and/or probation or parole status. LASD supervisors and commanders will conduct a regular review of this documentation to determine whether there are trends and patterns that indicate potential bias, or practices that run counter to effective and efficient policing.

LASD shall require that deputies document all *Terry* stops; all contacts that result in the request to conduct a consent search; all contacts that result in questioning about an individual's probation or parole status; and all consent searches, including searches conducted because of an individual's probation or parole status. The result of the questioning and search shall also be documented. The request to conduct a consent search and the request about an individual's probation or parole status should be reasonable, and deputies must be able to articulate the suspicion that formed the basis of the request. LASD policy will also require deputies to advise individuals of their right to refuse a consent search and to document consent in writing and audio record the consent. Supervisors shall additionally respond to the scene to approve consent searches of homes.

LASD will additionally require deputies to record, in an electronic, searchable and retrievable format, each detention in the backseat of a patrol vehicle as well as the length of the detention. LASD will also require deputies to articulate a reason, consistent with LASD policy and the law, for each backseat detention and hold deputies accountable for inappropriate detentions. LASD will provide updated training on the appropriate use of backseat detentions

and continue to reinforce that backseat detentions should not be a tactic used as a matter of routine or convenience and should not be used for traffic citation issuance or non-investigative contacts.

LASD shall also implement additional accountability and supervision practices in the Antelope Valley, and ensure that existing measures are followed, to ensure that unlawful stops and searches are detected and effectively addressed. Supervisors will be held accountable for appropriately and thoroughly reviewing reports and documentation related to stops, searches, and arrests, and requiring deputies to provide the appropriate level of detail. Antelope Valley supervisors and commanders will conduct regular analysis of stop and search data to determine whether any trends, patterns, or problems exist, and take appropriate steps in response to any trends or issues identified. LASD will also issue public reports about their analysis. In addition, LASD will make efforts to incorporate regular analysis of this data into its routine operational decisions.

2. Housing Choice Voucher Program Enforcement

LASD has already begun revising its policies regarding the role of deputies in the enforcement of Los Angeles County Housing Authority's housing choice voucher program (commonly referred to as "Section 8") through LASD's Field Operations Directive regarding Housing Authority Non-Criminal Investigations/Inspections. LASD is committed to further strengthening and uniformly implementing these protocols regarding deputy participation in HACoLA's investigation of housing choice voucher holders' compliance with program rules.

LASD will enhance its policies regarding the review of HACoLA's requests for deputy accompaniment on compliance checks, including specifically outlining factors to be considered when assessing the need for deputy accompaniment and the number of deputies necessary for accompaniment.

LASD will enhance its record keeping to consistently reflect each interaction a deputy has with a voucher holder in the voucher holder's home, including documenting the race of the voucher holder, when the deputy is in the home for a compliance check, or when the deputy otherwise receives information, in advance, that the occupants of the home participate in the voucher program.

LASD will institute new policies regarding LASD's own independent investigations of allegations of fraud on the voucher program, including guidance on proper procedures for sharing information with HACoLA.

LASD will revise its training curricula for all deputies to include training modules on the requirements of the Fair Housing Act as they apply to law enforcement. LASD also agrees to ensure that any third party trainings it sanctions, pays for, or subsidizes, including but not limited to those regarding the enforcement of the voucher program, do not conflict with the principles of this Agreement.

LASD will institute policies and procedures that outline the circumstances that may warrant a referral of fraud on the voucher program to the District Attorney's office or other third party, the approval process within LASD for making such referrals, and other procedures for how those referrals should be handled.

LASD will ensure that its participation in voucher program enforcement is consistent across Los Angeles County and agrees to collect and analyze data to confirm such consistency.

In addition, LASD will pay a civil penalty to the United States to vindicate the public interest and monetary damages to any persons harmed in the course of LASD's enforcement of the voucher program from 2004 to at least 2011. The Parties will negotiate the exact amount of damages and the final Agreement will set forth the process by which aggrieved persons are identified.

3. Bias-Free Policing and Disparate Impact Analysis of Data

LASD and Antelope Valley commanders will regularly analyze, at a minimum, the following data to determine whether there are disparities in policing activity associated with race and ethnicity: stop, search, contraband seizure, and arrest data; arrests for discretionary offenses; uses of force; obstruction arrests; obstruction arrests associated with uses of force; vehicle impoundments; civilian complaints; and voucher holder compliance checks involving LASD personnel. LASD will conduct regular comprehensive reviews of this data, including assessing whether there is a disparate impact on any particular group of people and taking into account relevant benchmarks, such as the demographic composition of the reporting district, crime rates, and age. LASD, as necessary, will conduct analyses to determine reporting districts and deputies with potentially problematic trends.

Through this data analysis, LASD will identify trends or issues that compromise constitutional policing and respond accordingly. Appropriate responses may include reviewing and revising any policies or training that may be leading to problematic trends; and assessing whether any practices should be changed to ensure adherence to constitutional requirements and/or more effective policing. LASD will link this data to other relevant Personnel Performance Index indicators (discussed at greater length in Section 6). LASD will make efforts to incorporate regular analysis of this data into its routine operational decisions. LASD will provide public reports on this analysis to the Antelope Valley community.

LASD will conduct regular training for deputies, training officers, supervisors, and command staff regarding discriminatory policing. The training will include periodic testing to ensure that employees are appropriately comprehending, retaining, and applying the knowledge and skills conveyed during the training. In addition to LASD's current state-mandated training for Antelope Valley deputies, the new training will focus solely on how bias may occur in law enforcement activity, and on the effects of bias on subjects of law enforcement activity. The curriculum will include discussion of the causes and negative impact on policing of biased policing, subconscious bias, and strategies to avoid and mitigate its effects. LASD will conduct regular roll call trainings to emphasize the importance of preventing discriminatory policing.

These roll call sessions will include scenario-based discussions of real and hypothetical situations.

LASD will hold Antelope Valley deputies strictly accountable for engaging in conduct suggesting bias or activity that subjects community members to different treatment on the basis of race, ethnicity, or other protected classes.

4. Use of Force

LASD will revise its use of force policies, training curricula, and any relevant directives, bulletins, or defensive tactics manuals to provide clear guidance about the reasonable use of force. Specifically, these revised materials will ensure that deputies receive appropriate guidance and training about how best to reasonably control handcuffed individuals, including providing clear direction on options available to deputies that do not include the use of force. LASD will also revise any policies and associated training about the use of force in response to individuals' failure to cooperate, and provide guidance about the use of force in response to lower level resistance. LASD will also revise its defensive tactics manuals regarding the appropriate use of head strikes and punches to the face. LASD will also revise its use of force policies and training curricula regarding communication, de-escalation, and disengagement tactics. LASD will continue to monitor obstruction-related charges and require supervisors and commanders to carefully review the narratives in use of force reports. The Antelope Valley stations will conduct regular analysis of obstruction arrests for patterns or trends.

LASD will also revise training for Antelope Valley supervisors and command staff to ensure that use of force incidents are appropriately investigated. Supervisors and command staff will receive training about how to review use of force statements for inconsistencies and misstatements, and how to detect when a deputy's statement about the use of force might be inconsistent with injuries sustained by either the subject or deputy. LASD will hold deputies accountable for unreasonable uses of force that violate policy, and require deputies to refer potentially unreasonable uses of force to the Internal Affairs Bureau or the Internal Criminal Investigations Bureau for further investigation or review. LASD shall ensure that force review/investigation is thorough and that the findings are consistent with the preponderance of the evidence. LASD shall ensure that officers are held accountable when they use unreasonable force and that supervisors are held accountable for not detecting, investigating, and responding to force that is unreasonable or contrary to LASD policy.

Antelope Valley commanders will regularly review and track the section of use of force reports regarding "training and tactical review" to ensure that informal supervisory feedback is not replacing the need for formal discipline, and additionally ensure that this supervisory feedback is documented in a performance log entry. Antelope Valley commanders will also regularly review the comments provided in the "training and tactical review" section of use of force reports to identify trends or patterns in use of force tactics. Antelope Valley commanders will then report upon these identified trends, as well as report upon the preventive steps they took to curb these trends, including issuing or revising policies, directives, training bulletins, or providing additional mentoring and supervision to individual deputies. LASD shall hold

commanders accountable for reviewing, tracking, and effectively responding to uses of force by personnel under their command.

5. Service Comment Reviews & Internal Affairs Bureau

LASD will revise its Service Comment Review and Internal Affairs Bureau (IAB) policies and procedure manuals to clarify when civilian complaints get referred for full administrative investigations. LASD shall conduct administrative investigations of all civilian complaints alleging behavior that, if substantiated, would be eligible for discipline. LASD policy will clearly state what kinds of behavior are eligible for discipline, including discriminatory or biased conduct. LASD shall make sure that, pursuant to existing policy, IAB sufficiently investigates all complaints related to use of force and discriminatory or biased policing. LASD will audit Service Comment Reviews and administrative investigations conducted by the Antelope Valley stations to ensure that the classifications are consistent with policy and LASD's Core Values, and that complaint dispositions are consistent with the weight of the evidence.

LASD will provide training to Antelope Valley deputies and supervisors about proper complaint intake, classification, and investigation techniques. LASD will provide training about how to record complete and thorough complaints from individuals, including how to obtain complaints from individuals who may not be proficient in English. LASD will continue its efforts to make the complaint process more accessible to community members. LASD will hold deputies, supervisors, and commanders strictly responsible for appropriately accepting and investigating complaints of misconduct.

All personnel involved in the investigation of civilian complaints will receive training on appropriate investigative skills, such as proper interrogation and interview techniques (such as avoiding leading questions); gathering and objectively analyzing evidence; how to identify alleged misconduct that is not clearly stated in the complaint or that becomes apparent during the investigation; properly weighing credibility of civilian witnesses against deputies; using objective evidence to resolve inconsistent statements; and the proper application of the preponderance of the evidence standard. LASD will hold Antelope Valley personnel strictly responsible for appropriately classifying every allegation raised by an individual in a complaint or during the investigation of a complaint. LASD will also hold personnel strictly accountable for appropriately investigating all allegations that may arise during an investigation even if an allegation of an apparent policy violation is not specifically articulated as such by the complainant.

6. Early Intervention System

LASD will modify its Personnel Performance Index (PPI) to track additional data relevant to policing within the Antelope Valley, including capturing data about stops, searches, and arrests. LASD will ensure that the PPI system is calibrated to effectively capture and analyze information that is relevant to current community concerns. LASD will periodically review how PPI is being used at the stations to ensure that it is employed in the manner most responsive to community complaints and any trends that LASD may otherwise identify. LASD shall also modify its procedure for Performance Log Entries so that all entries are maintained in an electronic format and noted in the Personnel Performance Index. LASD will ensure that PPI entries are accurately entered and hold Antelope Valley personnel accountable for inaccuracies in any data entered.

LASD will also expand PPI's capability so that it can make peer comparisons between deputies who work similar shifts or assignments, or to compare similar units. Antelope Valley commanders and supervisors will also conduct periodic reviews of all deputies under their command to identify potential trends. The purpose of these evaluations is not to discipline, but to provide deputies with necessary support, and to provide supervisors with appropriate information to help prevent certain practices from continuing unnecessarily.

LASD will continue to provide mentorship to deputies in the North Patrol Division's locally based Performance Mentoring Program (PMP), as well as through LASD's department-wide PMP, based upon appropriate determination of eligibility. LASD will ensure that the LASD-wide PMP program operates in a more timely manner so that interventions happen within a reasonable amount of time after a triggering incident, and to increase the effectiveness of the remedies used to address a deputy's behavior. LASD will also ensure that the Department-wide PMP and the North Patrol Division's PMP coordinate with each other and share information about deputies and their individual mentoring programs. Mentors involved in LASD's Performance Mentoring Program will continue to receive training about mentoring and training deputies effectively, so that they embody LASD's core values and public trust policing principles and instill those values at the line deputy level.

7. Community Engagement

LASD will continue its positive community engagement efforts in the Antelope Valley, including participating in local community meetings, making itself available for community feedback, developing the Community Advisory Committees (CAC), and working with the community on the development of diversion programs. Solidifying these community partnerships is at the heart of LASD's public trust policing model. To assess the success of these recently implemented community engagement initiatives, the Antelope Valley stations will determine which initiatives have been well-received by the community and why they have been successful, so that they can continue to refine and improve upon these efforts. LASD will issue public reports on the Antelope Valley stations' community engagement efforts, including identifying obstacles faced and recommendations for future improvement.

LASD will also assess specific issues of importance to the community, including, but not limited to, vehicle impoundments, response to calls for service, and access to the civilian complaint system.

8. Policy Review/Revision

To ensure compliance with the provisions of this Agreement, LASD will review and revise policies, including but not limited to all procedure manuals, field operations directives, and unit orders, to make sure that all requirements of the Agreement are reflected in the relevant policies. In addition, LASD will conduct annual reviews to ensure its policies remain consistent with the Agreement and current developments in law and police practice. LASD policies will be readily accessible to all LASD personnel and made public to the extent permitted by law.

9. Training

LASD will provide annual training to deputies, supervisors, and commanders that is sufficient in duration and scope to ensure that all deputies can consistently and effectively carry out LASD's policies and directives implementing the Agreement. In addition, LASD will provide sufficient training on any new or revised policies implemented as a result of this Agreement. LASD will provide updated training as necessary to reflect changes in the law, or to address identified training needs.

10. Court Enforceability and Independent Monitoring

The United States and Los Angeles County will seek entry of this Agreement as a court-enforceable order. The Parties will agree to the selection of an Independent Monitor who will act as an agent of the Court in assessing whether the Agreement is being implemented. This model has been used effectively to resolve pattern or practice investigations the most efficiently in other jurisdictions. The Independent Monitor also will conduct and report publicly on the status of the Agreement. The Independent Monitor also will conduct audits and reviews to determine whether the requirements of this Agreement have been fully implemented. In addition, the Independent Monitor shall conduct outcome assessments to determine whether the expected outcomes of the Agreement are being achieved. The Independent Monitor will conduct on-site observations, review records, incidents, and other policies, and engage in regular and frequent communications with the Antelope Valley stations and DOJ personnel. Additionally, the Independent Monitor may offer technical assistance to LASD in furtherance of full implementation of the Agreement.

11. Baseline Measures and Outcome Assessments

The Parties will agree on a set of objective outcome measures to be used to assess whether the Agreement is having the effect intended by the Parties of promoting constitutional policing and increasing community trust.

As part of the outcome assessments, LASD will establish baseline measurements in agreed-upon areas. Among other baseline measurements, LASD will modify or supplement its community surveys to assess community members' interactions with Antelope Valley deputies, including whether those interactions are consistent with the Constitution and federal law, and foster community trust in LASD.

12. Timing

The Parties both agree that they are committed to working together to reach a Final Settlement Agreement and seek court approval in as expeditious manner as possible, so that the important work of implementing reforms can begin. The Parties intend to have completed negotiations, including securing approval by the Los Angeles County Board of Supervisors, on the Final Settlement Agreement by August 30, 2013.

LERROY D. BACA
Sheriff
Los Angeles County Sheriff's Department

ROGER H. GRANBO
Assistant County Counsel
Office of the County Counsel
County of Los Angeles

Dated: 6-27-13

THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division

ROY L. AUSTIN, JR.
Deputy Assistant Attorney General
Civil Rights Division

JONATHAN M. SMITH
Chief

CHRISTY E. LOPEZ
Deputy Chief

CHARLES W. HART, JR.
MICHELLE L. LEUNG
Trial Attorneys
United States Department of Justice
Civil Rights Division
Special Litigation Section

Dated: 6/26/13